

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC.

Plaintiffs,

V.

Case No. 4:09-CV-00686 (ERW)

E.I. DU PONT DE NEMOURS AND
COMPANY and PIONEER HI-BRED
INTERNATIONAL, INC.,

Defendants.

STIPULATION

Following the discussion had with the Court during the hearing on September 17, 2010 concerning the timing on further briefing relating to Defendants' *Motion for Summary Judgment of Invalidity for Improperly Broadened Reissue Claims* (Dkt. 215), Plaintiffs Monsanto Company and Monsanto Technology LLC ("Monsanto") and Defendants E.I. DuPont de Nemours and Company and Pioneer Hi-Bred International, Inc. ("DuPont & Pioneer") hereby stipulate and agree that:

- (1) DuPont & Pioneer will not oppose Monsanto's *Motion for Leave to File a Sur-Reply Brief in Opposition to Defendants's Motion for Summary Judgment of Invalidity for Improperly Broadened Reissue Claims* (Dkt. 341 and (memorandum attached at Dkt. 342)); and
- (2) Monsanto consents to DuPont & Pioneer filing a Response to Monsanto's Sur-Reply brief on or before October 4, 2010.

Dated: September 20, 2010

Respectfully submitted,

HUSCH BLACKWELL SANDERS LLP

LEWIS, RICE & FINGERISH, L.C.

/s/ Joseph P. Conran

(signed with permission by filing counsel)

Joseph P. Conran, E.D.Mo. # 6455
Omri E. Praiss, E.D.Mo. # 35002
Greg G. Gutzler, E.D.Mo. # 84923
Tamara M. Spicer, E.D.Mo. # 122214
Steven M. Berezney, E.D.Mo. # 499707
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105

Dan K. Webb
George C. Lombardi
Todd J. Ehlman

WINSTON & STRAWN LLP
35 W. Wacker Drive, Suite 4200
Chicago, IL 60601

John J. Rosenthal
Matthew Campbell
WINSTON & STRAWN LLP
1700 K Street, N.W.
Washington, D.C. 20006

Steven G. Spears
Scott W. Clark
MCDERMOTT WILL & EMERY LLP
1000 Louisiana Street, Suite 3900
Houston, TX 77002

Kurt G. Calia
COVINGTON & BURLING LLP
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2401

Anthony J. Franze
ARNOLD & PORTER LLP
555 Twelfth Street, N.W.
Washington, D.C. 20004

Attorneys for Monsanto Company and
Monsanto Technology LLC

/s/ C. David Goerisch

Andrew Rothschild, #4214
C. David Goerisch, #77207
500 N. Broadway, Suite 2000
St. Louis, MO 63102

Leora Ben-Ami
Thomas F. Fleming
Christopher T. Jagoe
Howard S. Suh
KAYE SCHOLER LLP
425 Park Avenue
New York, New York 10022

Donald L. Flexner
BOIES, SCHILLER & FLEXNER LLP
575 Lexington Avenue, 7th Fl.
New York, New York 10022
(212) 446-2300
(212) 446-2350 (facsimile)
dflexner@bsfllp.com

James P. Denvir
Amy J. Mauser
BOIES, SCHILLER & FLEXNER LLP
5301 Wisconsin Avenue, N.W.
Washington, D.C. 20015

Attorneys for E.I. du Pont de Nemours
and Company and Pioneer Hi-Bred
International, Inc.